

BACKGROUNDS OF SELECTIVE SERVICE

Military Obligation: THE AMERICAN TRADITION

*A Compilation of the Enactments of Compulsion
From the Earliest Settlements
of the Original Thirteen Colonies in 1607
Through the
Articles of Confederation 1789*

SPECIAL MONOGRAPH NO. 1
VOLUME II
PART 3. DELAWARE ENACTMENTS

THE SELECTIVE SERVICE SYSTEM

1947

EXHIBIT 3 (McLean)

CLEARANCE COMMITTEE

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ANNO VICESIMO NONO REGNI REGIS GEORGII
SECUNDI

*AN ACT for establishing a Militia in
this Government*

WHEREAS the Subjects of the french King and their Savage Indian Allies have Contrary to the faith of the Most Solemn Treaties encroached upon and invaded his Majesty's Dominions on this Continent and have in the Most Cruel and Barbarous Manner Attacked and Murdered Great Numbers of his Majesty's Liege Subjects Inhabiting near the Fortiers of the Neighbouring Provinces and laid Waste a great Extent of Country. AND WHEREAS the Representatives of the free men of the Counties of Newcastle, Kent and Sussex on Delaware being Moved by a sense of Duty to his Most Excellent Majesty and being Concerned for the safety and security of their Constituents think themselves indispensably obliged—in this time of Danger to put—this Government into a Posture of Defence and make due Provision by Law that the Inhabitants may be trained and Exercised in the Art of War whereby they may not only be enabled to Assert the Just Rights and Vindicate the Honour of his Majestys Crown but also to defend themselves and their lives and Properties and Preserve the Many Invaluable Rights and Privileges that they enjoy under their Present Constitution and Government. They therefore pray that it may be enacted. And BE IT ENACTED by the Honourable ROBERT HUNTER MORRIS Esquire with his Majestys Royal Approbation Lieutenant Governor and Commander in Chief of the Counties of Newcastle kent and Sussex on Delaware and Province of Pennsylvania under the Honourable THOMAS PENN and RICHARD PENN Esquires true and Absolute Proprietaries of the Counties and Province Aforesaid by and with the Advice and Consent of the Representatives of the Freemen of the Said Counties in General Assembly met and by the Authority of the Same, *That every Male Person residing in this Government above Seventeen and under fifty years of Age (Except bought Servants or Servants Adjudged to serve his Creditors) shall on or before the first day of May next enlist himself or be enlisted by his Parent or Master with the Captain or Officer that shall be appointed and Commissionated by the Governor and Commander in Chief for the time being in every Hundred or District within this Government where such Person shall live or sojourn under the Penalty of five shillings and the further Penalty of Ten Shillings for every three Months he shall remain not Inlisted in manner aforesaid and in Case any dispute Shall Arise about the age of any Person the same shall be determined by the Commanding Officer before whom such dispute shall happen by the oath or Affirmation of the Person whose age is in Question or the oath or Affirmation of his Parent or some other Credible Witness, which oath or Affirmation the said Officer is hereby Impowered to Administer and to determine Accordingly.*

631 Del.—Assembly, Pub. Archives Comm., Dover, Del.; Act 1756, typescript, pp. 1-6.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That *every such Male Person* (except such as in the Judgment of the Captain or other Commanding Officer of the Hundred or district in which he resides be Adjudged incapable by reason of his Poverty) shall on or before the fifteenth day of May next *provide himself with one well fixed Musket or fuzee with a Worm and priming wire one Cartouch Box with Nine Charges of Gun powder and Ball suitable therein and three good flints to be Approved of by the Commanding Officer of the respective Company to which he belongs, and shall keep such Arms and Ammunition by him, in good Order and fit for Service at all times during the Continuance of this Act under the Penalty of Twenty Shillings for want of a well fixed Musket or fuzee with a worm and priming wire and Two Shillings and Six Pence for the want of every Cartouch Box and two Shillings for the want of Nine Charges of Gun Powder and Ball and three flints or any of them.*

AND BE IT FURTHER ENACTED by the Authority Aforesaid, That every such male person shall and are hereby Required to attend in their Proper Persons with the Arms, Ammunition and Accoutrements aforesaid in Good Order and fit for Service at the respective Places of Meeting in each Hundred that shall be for that purpose Appointed by the Commanding Officer under whom they are inlisted Six times in every year That is to say on the last friday in the Months of May, July, September, October, March and April in the County of Newcastle and the Last Saturday in each of the said Months in the Counties of Kent and Sussex each day at the Hour of Twelve in Order to be taught and instructed in the Military Exercise and shall Continue under arms any time not exceeding Four Hours and Shall yeild due Obedience unto the Orders and Commands of their respective Officers, and every Person refusing or neglecting to Appear on the Days and Times Aforesaid Armed in Manner aforesaid (unless he renders such a reasonable Excuse to the Said Commanding Officer as he shall allow and Approve of) or shall refuse or Neglect to Yield Obedience to the Orders and Commands of his Said Officers shall for every such default forfeit and Pay the Sum of five Shillings.

AND BE IT FURTHER ENACTED by the Authority Aforesaid That the Colonel of each respective Regiment within this Government or in Case of his Death or Absence the next Commanding Officer shall and May (if Occasion requires) once in every year direct the whole Regiment under his Command to meet at such Place as he shall appoint as Near the Center of each County as Conveniently may be in Order for a General Review of the Same and every Male Person in the said County under Fifty and above Seventeen Years of Age are hereby strictly required and enjoined to meet at the Place so Appointed with the Arms, Accoutrements and Ammunition above Mentioned in Good Order and then and there shall yield due obedience to the Orders of Such Colonel or Commanding Officer, and every Person refusing or neglecting to Attend in Manner aforesaid (unless a reasonable Excuse shall be made to and allow'd of by such Officer) or shall refuse or neglect to yield Obedience to the Commands of such Officer Shall for every Such Default pay the sum of Seven Shillings and Six pence.

AND BE IT FURTHER ENACTED by the Authority Aforesaid that once in every year the Captains or in their Absence the next Commanding Officer of every Respective Company shall deliver to the Colonel or in his Absence to the next Commanding Officer of the Regiment for each County a muster Roll under his hand Containing the Names of all the Persons belonging to and enlisted in his Company under the Penalty of Three Pounds for Such Neglect And the said

Colonel or next Commanding Officer shall within Two Months next after the receipt of Such Roll send a Copy thereof under his hand to the Governor or Commander in Chief of this Government for the time being under the Penalty of Five Pounds.

AND BE IT FURTHER ENACTED by the Authority aforesaid That the Commander in Chief of this Government for the time being may and shall make and Establish Such Articles and Rules for the Regulating and Better Governing of the Militia of this Government while under Arms or in actual Service as he shall judge meet and expedient. PROVIDED ALWAYS that no Punishment to be inflicted by the said Articles or rules for the Breach thereof shall be otherwise than by fine not Exceeding Five Pounds or Imprisonment not Exceeding ten days and all Captains or other Commanding Officers are hereby required Publicly to read Such Rules and Articles so Made at the Head of his Company when and as often as they shall Meet to be Exercised in the Manner Above directed and every Persons inlisted shall yield due Obedience to and shall strictly Observe the Rules laid down in such articles under the Pain of incurring the Penalty's therein prescribed for the Breach thereof.

AND BE IT FURTHER ENACTED by the Authority aforesaid, That the fireing of four Muskets successively and distinctly and the Beating of a Drum or the fireing of Two Great Guns at four Minutes distance of Time and the Beating of a Drum shall be the Signals of and be deemed and taken to be an Alarm and the Commanding Officer of each Company who shall first have notice of an Alarm shall forthwith raise the Company under his Command and also send Immediate Notice and Intelligence thereof to the Commanding Officer of the next Hundred or District who shall in like Manner cause notice to be given to the next Commanding Officer and so on 'till general notice be given throughout the whole County and the Captains or other Commanding Officer of each respective Company shall march with his Company to such Place of Rendezvous as Shall be Appointed by the Colonel of his Regiment shall and are hereby impowered on such Occasions to impress Horses and Carriages as the service may require under the Penalty of Thirty Pounds for each and every such default or neglect and being degraded and thereafter rendered incapable of holding or exerciesing any Office Civil or Military within this Government; and every Lieutenant or Ensign upon such alarm neglecting or refuseing to join his respective Company and to do the duties of his Office shall forfeit and pay, the Lieutenant the sum of Twenty Pounds, and the Ensign the sum of ten Pounds and be also degraded and thereafter rendered incapable of Holding or exercising any Office Civil or Military within this Government.

AND BE IT FURTHER ENACTED by the Authority aforesaid that upon every such Alarm every person within this Government above the Age of Seventeen years and under the age of fifty and every Officer under the degree of a Captain shall and is hereby required Immediately to repair with the Arms and Accoutrements Aforesaid to the habitation of the Captain of the Hundred in which he resides or the Company in which he is inlisted unless some other place shall be appointed for that Purpose thereto Receive such Orders and March to such Place as he shall Appoint, and shall obey all such Commands as the said Captain or next Commanding Officer shall give and shall not depart from his Colours without leave of the said Officer first had and Obtained under the Penalty of five Pounds for each and every such Default and Offence.

AND BE IT FURTHER ENACTED by the authority aforesaid that if any field Officer of the respective Regiments in this Government in the time of an

alarm Invasion or Insurrection shall Neglect or refuse to do the duty of his Office such field Officer so Offending shall forfeit and pay for such offence, that is to say, a Colonel the sum of one Hundred Pounds, a Lieutenant Colonel the sum of Eighty Pounds and a Major the sum of Sixty Pounds and moreover shall be Cashiered and ever after rendered incapable of holding or exercising any Office Civil or Military within this Government and if any Person or persons except an Officer or some person by him impowered and directed shall Presume to make the signals of an alarm in Manner aforesaid within this Government he or they shall for such Offence forfeit and pay the sum of ten Pounds and for the Preventing any false alarms being made.

BE IT ENACTED by the authority aforesaid that from and after the first day of May next no person or persons shall presume to fire any small arms or guns from two Houres After Sun set until one Hour before sun rise unless in case of Invasion Desent or Insurrection or other Lawful Occasion under the Penalty of Twenty Shillings for every such Offence and that no Captain, Master or Commander of any Ship or other Vesel within any Port or harbour in this Government shall fire or suffer to be fired any Great Guns or small Arms on Board such Ship or other Vesel Within the times aforesaid under the like Penalty of Twenty Shillings.

AND BE IT FURTHER ENACTED by the authority aforesaid that if any person or Persons either Officers or Soldiers shall be wounded or disabled upon an Invasion or in any Military Service under this Act he or they shall be taken Care of Supported and Maintained according to his Rank and Dignity at the Publick Charge of the County to which he or they Belong during the time of his or their Disability.

AND BE IT FURTHER ENACTED by the Authority aforesaid that no person or Persons by this Act directed and required to meet and Muster at the Days and times aforesaid shall be liable to be arrested or taken by any sheriff, Constable or other Officer in any Civil Action,—whatsoever on the day of such meeting or in any reasonable time either in going to Continuing at or returning from such place or places of Meeting but every such arrest shall be ipso facto Void and the officer making the same shall be liable to an Action of Trespass for false Imprisonment at the Suit of the Party so Arrested Contrary to the Directions of this Act and the Said Party shall be forthwith set at liberty and discharged from the Custody of such Officer by order of any two Justices of the Peace of the County where such Arrest is made and the arms, Ammunition and Accoutrements aforesaid of every person required by this Act to provide and keep the same for Military Service shall be and are hereby declared to be exempt and privilged from all distress, Executions, Extents, Attachments or other Process whatsoever and any Civil Officer destraining siezing, Attaching, or taking the same in Execution shall forfeit and pay the sum of Twenty Shillings to the Partie Grieved and any Sale thereof by him shall be Null and Void.

AND BE IT FURTHER ENACTED by the authority Aforesaid that no Captain or other Officer shall Appoint any place of Meeting for his Company (town Companys only Excepted) within the Distance of half a mile of any Inn or Tavern under the Penalty of Forty Shillings for every such Offence and that no person or persons shall presume to keep a Booth or tent or expose to sale at or Bring on any Pretence whatsoever any strong Liquor to such place of Meeting under the Penalty or Forty shillings for every such offence.

AND BE IT FURTHER ENACTED by the Authority aforesaid that the Several Treasurers of the respective Counties in this Government shall at the

Public Expence provide for each Company in the said Counties not already furnished or provided therewith one good Drum a pair of Colours and two Halberts, which expence and Cost is hereby ordered to be raised and Levy'd by the Levy Courts of the Several Counties at the usual time of Laying the Levy's and raised in the manner as other County rates and Levys are.

AND BE IT ENACTED by the Authority aforesaid that each Captain shall nominate and appoint a proper and Capable person out of his Company to be his Drummer and in Consideration of such Service he shall be and is hereby declared to be exempted from providing himself with the arms and accoutrements required of every other person by this Act.

AND BE IT FURTHER ENACTED by the Authority aforesaid That all Supream Judges, all Justices of the Peace, Prothonotaries, Registers, Lawyers, Physicians, Surgeons all Persons who have Acted as Commissioned Officers under any former Militia Law of this Government, one Miller to every Grist Mill and every keeper of a Publick Goal within this Government Shall be and are hereby declared to be free and exempt from actual Military duty or service whatsoever except on a General alarm or in the time of Actual Invasion at which times they shall appear and do duty in the same manner as other persons are Directed and required by this Act under the Like Penalty's imposed herein on other Offenders.

PROVIDED ALWAYS that nothing herein Contained shall be deemed or Construed to exempt such persons from Providing and keeping at all times by them fit for service such Arms ammunition and Accoutrements as others are required to do under the Penalty for forfeiting and paying for every such offence the sums imposed on other Delinquents and all ministers of the Gospel as well Quakers as others are hereby exempted freed and discharged from all and every the Duties and services required of others by this Act.

AND BE IT FURTHER ENACTED by the authority Aforesaid That the several fines and forfeitures mentioned in this Act due from any Person under the Degree of a Commissioned Officer that do not exceed the Sum of Twenty Shillings shall be paid by the Person or persons offending to the Captain of the Company of the Hundred or District in which such person lives within ten days after the Commission of such offence and shall be applied by the said Captain towards the Purchasing Arms Ammunition and accoutrements for such persons in the said Company as shall not (in the Judgment of the said Captain) be of ability to purchase the same and in Case of nonpayment of the said fines and forfeitures within the time aforesaid the same shall be recovered by Distress and sale of the offenders Goods and Chattles by Warrant under the hand and Seal of any one Justice of the Peace of the County wherein such fine or forfeiture arises and in Case no goods or Chattles can be found then by Imprisonment of the Body of the said Offender untill payment made of the said fine and the said Captain shall settle an Account once in every year with the Colonel of the Regiment to which he belongs shewing what fines he hath received and how he hath disposed of the Same and all such fines and forfeitures as exceeding the sum of Twenty Shillings that shall not be paid to the Captain within the time of aforesaid shall be recovered by Warrant under the hands and seals of any three Justices of the Peace of the County in which the offence is Committed and be disposed of in the Manner above directed and all fines by this Act imposed on any Commissioned Officer under the degree of a Colonel for a Breach or neglect of his duty shall be paid within the time above mentioned to Colonel of the Regiment to which such Officer doth belong to be recovered

by the said Colonel in any Court of Record within this Government by Action of Debt, Bill plaint or Information wherein no Essoin, Protection or wager of Law shall be allow'd nor any more than one Imparllance and shall be applied by the said Colonel to the Purchasing of Arms, Ammunition and Accoutrements for such Company or Companies as may stand most in need of the Same and from the time of such Conviction Such Officer shall be and is hereby declared to be Incapable thence forth from holding, enjoying or exercising any office Civil or Military within this Government and each respective Colonel shall annually account with the Assembly of this Government for all fines by him recovered and applied in Manner Aforesaid and all fines by this Act Imposed on a Colonel for a Breach or Neglect of his Duty to be paid by him within the time aforesaid to the County Treasurer for the time being of the County in which he resides to be recovered in the manner and form last above Mentioned and applied by the Said Treasurer to the Purchasing of arms Ammunition and Accoutrements for such Company or Companys as the Lieutenant Colonel and Major of the said Regiment shall direct and appoint and the said Treasurer shall annually account with the Assembly of this Government for such fines so recovered and Applied.

AND BE IT FURTHER ENACTED by the Authority aforesaid that if any Justice or Justices of the Peace within this Government shall refuse or Neglect to issue Warrants in Manner aforesaid on Application to him or them for that [use] made by the Proper Officer or if any Colonel or Captain or other Commanding Officer shall thro' favour [or] partiality neglect or refuse to recover and receive the fines and forfietures by this Act imposed on persons Offending against the same or any part thereof and shall be thereof Convicted by the Testimony of two Credible Witnesses or the Confession of the Partie Offending before the Justices of the Court of Quarter Sessions for the County where such offence shall be Committed who are hereby Impowered and required in a summary way to hear and Determine the same he or they so Offending shall forfiet and pay the sum of four pounds to be Levyed with Costs by Process Issuing out of the said Court and such forfieture shall be applied to the use of the Poor of the County respectively.

AND BE IT FURTHER ENACTED by the authority Aforesaid that if any suit or Action shall be brought against an Officer Civil or Military for doing the duty enjoined or required of him or them by this act he or they may plead the General issue and give this Act in Evidence an if the Plaintiff in such suit shall discontinue his Action be non suited or a Verdict shall Pass against him or Judgment be given against him on Demurrer, he shall pay to the Defendant Treble Costs.

AND BE IT _____ ENACTED by the Authority aforesaid that this Act shall continue and be in force for the Term of one Year and from thence to the end of the next Sessions of Assembly and No longer.

Newcastle March 24th 1756 I assent Sign'd by Order of the House
to this Bill enacting the same and order
it to be enrolled

ROB^t H. MORRIS

I DO hereby Certifie that the above and foregoing Seven Sheets is a true Copy Compared with the Original at Newcastle WITNESS my hand and Seal this Thirtieth day of March Annoq.
Domini 1756. RICH^d. M; WILLIAM.